

**STATE OF GEORGIA
COUNTY OF FULTON
CITY OF SOUTH FULTON**

ORDINANCE No. 2017-007

ADOPTION OF TAXATION ORDINANCE

WHEREAS, the City of South Fulton ("City") is a municipal corporation duly organized and existing under the laws of the State of Georgia;

WHEREAS, the City Council is authorized by O.C.G.A. § 36-35-3 to adopt ordinances relating to its property, affairs, and local government;

WHEREAS, the duly elected governing authority of the City is the Mayor and City Council;

WHEREAS, Section 1.12(b)(40) of the City Charter authorizes the City Council to impose ad valorem taxes at a rate of 13.469 unless the City Council and voters of the City approve of a resolution authorizing a greater millage rate;

WHEREAS, Section 1.12(b)(41) of the City Charter authorizes the City Council to impose all other taxes that may be allowed by law;

WHEREAS, Chapter 5 of Title 48 of the Official Code of Georgia Annotated authorizes municipalities to impose ad valorem taxes on property;

WHEREAS, Chapter 8 of Title 33 of the Official Code of Georgia Annotated authorizes municipalities to impose premium taxes of life insurance policies;

WHEREAS, Chapter 6 of Title 48 of the Official Code of Georgia Annotated authorizes municipalities to impose business license taxes on depository financial institutions operating within city limits;

WHEREAS, the City requires revenue to operate and provide municipal services to City residents;

THE COUNCIL OF THE CITY OF SOUTH FULTON HEREBY ORDAINS as follows:

Section 1: The City of South Fulton Code of Ordinances, Title 2, Taxation, is hereby established and enacted as follows:

Title 2: TAXATION

CHAPTER 1. – GENERAL (Reserved).

CHAPTER 2. – AD VALOREM TAXES

Sec. 2-2001. – Annually Set.

On or before June 30 of each year, the City Council shall set the millage rate and ad valorem taxes for all real property within the City for ad valorem purposes.

The millage rate shall be 11.579 unless or until another rate is adopted by the City Council.

Sec. 2-2002. – Due Date

The ad valorem taxes due the City shall become due and payable between July 1 and October 15 of each year, any said taxes not paid in full by the last day specified shall, notwithstanding any existing law, be in default, and shall bear interest and penalties, now or hereafter, as provided by law for taxes which are delinquent or in default, and executions issued therefor, after December 31 of the year in which such taxes become delinquent.

Sec. 2-2003. – Fines for Delinquent Payment.

Any person failing to return his real property, for tax purposes, on or before April 1 of each year is assessed a penalty of ten percent of the amount of taxes due the City. Said penalty is in addition to the amount of ad valorem taxes due the City and also in addition to any costs and interest and interest permitted by law. Partial payments shall not be accepted.

Sec. 2-2004. – Collection of Delinquent Taxes

(a) The duty to collect by levy and sale, or otherwise, for delinquent taxes is hereby imposed upon the City Treasurer as the City Tax Collector or his designee as issuing officer, and the county sheriff as execution officer. All levies of execution for delinquent taxes are in the name of the City. This duty may be contracted, by the City Council, to a third party.

(b) It is the duty of the City Tax Collector or his designee to comply with all provisions of state law applicable to the provision for issuing, sale and transfer of tax executions and laws governing judicial sales and to:

- (1) Keep a file of all newspapers in which an official advertisement appears;
- (2) Keep an execution docket in which is entered a full description of all executions;
- (3) Maintain a book of all sales;
- (4) Maintain an index to the sales and executions.

(c) The City Tax Collector shall sign all levies, notices, advertisements, and the like in his name for the City.

(d) Execution in the name of the City for delinquent ad valorem taxes are directed and delivered to the county sheriff, who shall enter the execution upon the docket to be kept in his office and he shall proceed to enforce the collection of the execution in the manner prescribed by law.

(e) The City Tax Collector will issue all fieri facias (fi. fas.) for delinquent taxes and the county sheriff shall execute such fi. fas. Under the same procedures provided by law

governing execution of such process from the superior court, or by the use of any other available legal process and remedies.

Sec. 2-2005. – Assessment of Property

(a) The Fulton County Board of Tax Assessors is hereby designated to have the responsibility for assessment and valuation of property within the City limits. The City Council shall adopt the assessment and valuations made by the Fulton County Board of Tax Assessors for all property located within the City limits as may be established from year to year by the Fulton County Board of Tax Assessors.

(b) The City Council does authorize the Tax Commissioner of Fulton County to make such adjustments in the collection of individual items of tax, and to make such refunds as may be proper and necessary, by addition to or deducting from the distribution due the City at the next period of accounting, along with stated explanation of the correction.

CHAPTER 3 – HOTEL AND MOTEL TAXES

Sec. 2-3001. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Guestroom* means a room, lodging, or accommodation occupied or intended for occupancy by one or more occupants but does not mean a meeting room that is intended, designed, or used for meetings.

(b) *Hotel* means a structure or any portion of a structure, including, but not limited to, rooming or lodging houses, inns, motels, motor hotels and courts, hotels, cabins, public or private clubs, and tourist camps, which contain guestrooms which are regularly furnished for value to the public.

(c) *Occupancy* means the use or possession or the right to the use or possession of any guestroom in a hotel or the right to the use or possession of the furnishing of services or accommodations that accompany the use or possession of a guestroom in a hotel.

(d) *Occupant* means any person who, for a consideration, uses or possesses or has the right to use or possess a guestroom in a hotel under any lease, concession, contract, permit, right of access, license, or other agreement.

(e) *Operator* means any person operating a hotel in the city, including the owner, proprietor, lessee, sublessee, licensee, or other entity operating the premises.

(f) *Rent* means the consideration received for the occupancy of a guestroom in a hotel whether received in money, property, services, or credits.

(g) *Tax* means the tax imposed by this chapter.

Sec. 2-3002. - Tax imposed; exceptions.

(a) Pursuant to O.C.G.A. § 48-13-51(a)(5), there is imposed, assessed, and levied, and there is paid an excise tax of seven percent (7%) of the rent for every occupancy of a guestroom in a hotel in the city. The tax is paid on any occupancy after July 1, 2017, within the city limits.

(b) The tax imposed by this chapter shall not apply to charges or transactions excluded or exempted from the tax by state law.

(c) Operators collecting the hotel-motel tax imposed by this chapter shall be allowed a reimbursement, in the form of a deduction, for collecting, submitting, reporting, and paying the amount due. The rate of the deduction shall be three percent of the amount due, but only if the amount due is not delinquent at the time of payment.

Sec. 2-3003. - Operator registration; certificate of authority.

(a) Every person engaged in or about to engage in the operating as an operator of a hotel in the city shall register at city hall on a form provided by the city. The failure to register shall not relieve any person from the obligation of payment or collection of the tax.

(b) The registration shall set forth the name under which the person transacts business or intends to transact business, the location of his place or places or business, and other information that would facilitate the collection of the tax as the city may require. The registration is signed by the owner if a natural person; in case of ownership by an association or partnership, by a member or a partner; in the case of ownership by a corporation, by an executive officer or some person specifically authorized by the corporation to sign the registration.

(c) The city shall, after the registration, issue without charge a certificate of authority to each operator to collect the tax from the occupant. A separate registration is required for each place of business of an operator. Each certificate shall state the name and location of the business to which it is applicable and is prominently displayed therein so as to be seen and to come readily to the notice of all occupants and persons seeking occupancy.

(d) The certificates are nonassignable and nontransferable and are returned immediately to the city manager or his or her designee, upon the cessation of business at the location named or upon the sale or transfer of the business at that location.

Sec. 2-3004. - Delinquent penalty.

Any operator who fails to pay the tax to the city on or before the due date shall pay a penalty of ten percent of the tax not paid plus interest on the unpaid tax at the rate of one percent per month.

Sec. 2-3005. - Enforcement and administration.

(a) The City Finance Officer, acting as the City Tax Collector, shall administer and enforce the provisions of this chapter.

(b) The City Tax Collector, in conjunction with the City Manager, shall have the power and authority to make reasonable rules and regulations not inconsistent with this chapter or other laws or ordinances for the administration and enforcement of the provisions of the article and the collection of the tax.

(c) Every operator renting guestrooms in a hotel in the city shall keep such records, receipts, invoices, and other pertinent papers in such form as the city manager or his designee, may require.

(d) The City Tax Collector or any person authorized in writing by the City Manager may examine the books, papers, records, financial reports, and facilities of any operator renting guestrooms and any operator liable for the tax in order to verify the accuracy of and return made or to ascertain and determine the amount of tax which should be paid.

(e) In administering this chapter, the City Tax Collector may require the filing by operators of reports relating to the rental of guestrooms.

(f) If the City Tax Collector is not satisfied with the return of the tax or the amount of the tax required to be paid to the City by any person under this article, the City Treasurer may compute and determine the amount required to be paid upon the basis of any information within the City Treasurer's possession or that may come into the City Treasurer's possession. One or more deficiency determinations may be made of the amount due for one or more monthly periods.

(1) The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month or any fraction of a month from the 20th day after the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

(2) In making a determination, the City Treasurer may offset overpayments for a period against underpayments for another period against penalties and against the interest on underpayments.

(3) Penalties.

(A) If any part of the deficiency for which a deficiency determination has been made is due to negligence or disregard of rules and regulations, a penalty of 15 percent of the amount of the deficiency shall be added thereto.

(B) If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade any section of this article or other authorized rules and regulations, a penalty of 25 percent of the deficiency shall be added thereto.

(4) Notice.

(A) The City Treasurer or his or her designee shall give to the operator written notice of the City Treasurer's determination.

(B) The notice may be served personally or by mail; if by mail the service shall be addressed to the operator at the operator's address as it appears in the records of the City Treasurer. For service by mail of any notice required by this article, the service is complete at the time of deposit in the United States post office.

(5) Limitations. Time limit for mailing notice of deficiency determination. Except for fraud, intent to evade this article or authorized rules or regulations or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period should last expire.

Sec. 2-3006. - Penalties.

Any operator or person who violates any provision of this chapter shall be guilty of a misdemeanor.

Section 2-3007. – Exceptions.

No tax pursuant to this chapter shall be imposed upon the following:

- (a) Permanent residents.
- (b) Georgia state or local government officials or employees while traveling on official business and using guest rooms furnished for a period of one or more days.
- (c) Persons who certify they are staying in a guest room as a result of the destruction of their home or residence by fire or other casualty.
- (d) Persons using meeting rooms and other such facilities or any rooms, lodgings, or accommodations provided without charge.

CHAPTER 4 – RENTAL MOTOR VEHICLE EXCISE TAX (Reserved)

Sec. 2-4001. – Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) *Rental charge* means the total value received by a rental motor vehicle concern for the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including the total cash and nonmonetary consideration for the rental or lease including, but not limited to, charges based on time or mileage and charges for insurance coverage or collision damage waiver but excluding all charges for motor fuel taxes or sales taxes.
- (b) *Rental motor vehicle* means a motor vehicle designed to carry ten or fewer passengers and used primarily for the transportation of persons that is rented or leased without a driver regardless of whether such vehicle is licensed in this state.
- (c) *Rental motor vehicle concern* means a person or legal entity which owns or leases five or more rental motor vehicles and which regularly rents or leases such vehicles to the public for value.

Sec. 2-4002. – Authority and Administration.

(a) The Finance Officer shall administer and enforce this chapter for the levy and collection of the tax.

(b) Rules and regulations. The Finance Officer shall have the power and authority to make and publish reasonable rules and regulations not inconsistent with this chapter, or other laws of the City and the State of Georgia, or the Constitution of the State of Georgia or the United States for the administration and enforcement of this article and the collection of the tax under this chapter.

(c) Records required. Every rental motor vehicle concern subject to this article shall keep such records, receipts, invoices and other pertinent papers in such form as the Finance Officer may require. Such records shall include, but not be limited to, rental charges for rental motor vehicles and taxes collected which are related thereto. Said record is open for inspection and copying by the city manager, or his designee, during business hours.

Sec. 2-4003. – Excise Tax Levied; Exceptions.

(a) There is hereby assessed and levied an excise tax upon each rental charge collected by any rental motor vehicle concern when such charge constitutes a taxable event for the purposes of the sales and use tax as provided for under O.C.G.A. title 48, ch. 8, art. 1 (O.C.G.A. § 48-8-1 et seq.), on any motor vehicle rental charge made in the city. The tax levied pursuant to this article is in the amount of three percent of the rental charge.

(b) The Council declares that the proceeds received from the excise tax levied by this chapter are to be expedited for use in public safety facilities, including pedestrian sidewalks, installation of traffic lights, street lighting for public safety purposes, and for the maintenance of such systems of traffic lights and streetlights within the territorial city limits. Proceeds received from the excise tax imposed by this chapter may also be used for promoting industry, trade, commerce, and tourism; for the provision of convention, trade, sports, and recreational facilities.

(c) The excise tax imposed by this chapter shall not apply to the rental charge associated with the rental or lease of a rental motor vehicle if either:

(1) The customer picks up the rental motor vehicle outside the State of Georgia and returns it within the State of Georgia; or

(2) The customer picks up the rental motor vehicle in the State of Georgia and returns it outside the State of Georgia.

Sec. 2-4004. – Collection Fees.

Each person collecting the excise tax authorized by this chapter shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting, and paying the amount due if the amount due is not delinquent at the time of payment. The rate of deduction shall be 3 percent of the amount due but only if the amount due was not delinquent at the time of payment.

Sec. 2-4005. – Statements Required.

(a) On or before the 20th day of each month, the motor vehicle concern liable for the tax provided for herein shall transmit to the city a statement showing the gross rental charges and gross taxes collected authority of this article for each preceding calendar month. Along with said statement, the motor vehicle concern shall submit the net taxes due for each particular month.

(b) Failure to remit taxes by the due date shall subject the rental motor vehicle concern to a penalty of five percent of the tax then due and in addition to such penalty, interest thereon the unpaid principal amount due, computed at the rate of one percent per month.

Sec. 2-4006. – Deficiency Determinations.

(a) Determination. If it appears that a return for excise tax or the amount of tax remitted is inaccurate or incomplete, the City Treasurer or his or her designee may compute and determine the amount required to be paid based on any information within his possession or that may come into his possession. One deficiency determination may be made for the amount due for one or more monthly periods.

(b) Interest. The amount of the determination made by the City Treasurer or his or her designee shall bear interest the rate of one percent per month or fraction thereof from the due date of the taxes found due by him or her.

(c) Notice.

(1) The City Treasurer or his or her designee shall give to the rental vehicle concern a written notice of any such determination. The notice may be made personally or by mail and if by mail the service is addressed to the operator or the of the rental motor vehicle concern at the address as the same appears in the records of the city manager or designee as provided to him by each rental motor vehicle concern.

(2) Service is complete when delivered by certified mail with a receipt signed by an addressee or agent addressee.

(d) Limitations. Except in cases of failure to make a return, every notice of a deficiency determination shall be mailed within three years after the 20th day of the calendar month following the period in which the amount proposed to be determined or within three years after the return was filed, whichever period shall expire last.

Sec. 2-4007. - Withholding Tax on Sale of Business.

(a) If any rental motor vehicle concern liable for any amount under this chapter transfers or sells its business or quits the business, its successors or assigns shall withhold sufficient amounts from the purchase price to cover the amount required to be paid pursuant to this article until the former owner or operator of the rental motor vehicle concern produces a receipt from the city manager or designee showing that the indebtedness has been paid or a certificate stating that no amount is due.

(b) If the purchaser of a business or rental motor vehicle concern fails to withhold from the purchase price as required herein such purchaser is personally liable for the payment of the amount of the outstanding tax required to be withheld by him to the extent of such purchase price.

Sec. 2-4008. - Penalty; expiration of tax.

(a) In addition to the interest charges and delinquent penalties specified in this article any person violating any provision of this article shall be deemed guilty of a violation of this Code, which shall be punishable as a misdemeanor.

(b) The tax levied by this article is effective on January 1, 2006, and shall continue until its permissible existence shall expire as provided by law.

CHAPTER 5 – BUSINESS AND OCCUPATION TAXES

CHAPTER 6 - INSURANCE PREMIUM TAXES

Sec. 2-6001. - Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) *Gross direct premiums* means gross direct premiums as used in O.C.G.A. § 33-8-4.

(b) *Insurer* means a company that is authorized to transact business in any classes of insurance designated in O.C.G.A. § 33-3-5.

Sec. 2-6002. – Insurers License Fees

There is hereby levied for the year 2017 and for each year thereafter an annual license fee upon each insurer doing business within the City of South Fulton, Georgia in the amount of one hundred and fifty dollars (\$150.00). For each separate business location in excess of one not covered by Section 2, which is operating on behalf of such insurers within the City of South Fulton, Georgia, there is hereby levied a license fee in the amount of one hundred and fifty dollars (\$150.00).

Sec. 2-6003. - License Fees for Insurers Insuring Certain Risks at Additional Business Locations

For each separate business location, not otherwise subject to a license fee hereunder, operated and maintained by a business organization which is engaged in the business of lending money or transacting sales involving term financing and in connection with such loans or sales offers, solicits or takes application for insurance through a licensed agent of an insurer for insurance said insurer shall pay an additional license fee in the maximum amount permitted pursuant to O.C.G.A. § 33-8-8(b)(2) on each insurance company.

Sec. 2-6004. – Gross Premiums Tax Imposed on Life Insurers

There is hereby levied for the year 2017 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer writing life, accident and sickness insurance within the State of Georgia in an amount equal to one percent (1%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.1. Gross direct premiums as used in this section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section 1 of this ordinance.

Sec. 2-6005. – Gross Premiums Tax, All Other Insurers

There is hereby levied for the year 2017 and for each year thereafter an annual tax based solely upon gross direct premiums upon each insurer, other than an insurer transacting business in the class of insurance designated in subsection 1 of O.C.G.A. § 33-3-5, doing business within the State of Georgia in an amount equal to two and one-half percent (2.5%) of the gross direct premiums received during the preceding calendar year in accordance with O.C.G.A. § 33-8-8.2. Gross direct premiums as used in the section shall mean gross direct premiums as used in O.C.G.A. § 33-8-4. The premium tax levied by this section is in addition to the license fees imposed by Section 2-3002 of this Code of Ordinances.

Sec. 2-6006. – Due Date for License Fees

License fees imposed in Sections 2-3002 and 2-3003 of this Code of Ordinances shall be due and payable on the first day of January and on the first date of each subsequent year.

Section 2-6007. – Administrative Provisions

The City Clerk is hereby directed to forward a duly certified copy of this ordinance to the Insurance Commissioner of the State of Georgia within 45 days of its enactment.

CHAPTER 7 – FINANCIAL INSTITUTION TAXES

Sec. 2-7001. – Definitions

The definitions in O.C.G.A. §§ 48-6-90 and 48-6-93 apply to this chapter.

Sec. 2-7002. – Tax Levied; Rate.

In accordance with O.C.G.A. § 48-6-93, there is hereby levied an annual business license tax upon all depository financial institutions located within the City at a rate of 0.25 percent of the gross receipts of said depository financial institutions.

Sec. 2-7003. – Minimum Business License Tax.

The minimum annual amount of business license tax due from any depository financial institution pursuant to O.C.G.A. § 48-6-93(a) is \$1,000.00.

Sec. 2-7004. – Due Date of Taxes.

Taxes levied pursuant to this article are paid to the city manager or designee at the time of filing the return.

Sec. 2-7005. – Relation of Tax To Other Business Licenses.

The tax imposed by this article is in lieu of any other business license upon depository financial institutions.

Section 2: Severability

In the event any portion of this ordinance shall be declared or adjudged invalid or unconstitutional, it is the intention of the City Council of the City of South Fulton, Georgia, that such adjudication shall in no manner affect the other sections, sentences, clauses or phrases of this ordinance which shall remain in full force and effect, as if the invalid or unconstitutional section, sentence, clause or phrase were not originally a part of the ordinance.

Section 3: Repealer

All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.

Section 4: Effective Date

Unless specifically specified elsewhere in this Ordinance, the effective date of this Ordinance shall be June 20, 2017.

The foregoing Ordinance No. **2017-007** was offered by Councilmember khalid, who moved its approval. The motion was seconded by Councilmember Gilyard, and being put to a vote, the result was as follows:

	AYE	NAY
William "Bill" Edwards, Mayor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Catherine Foster Rowell, Mayor Pro Tem	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Carmalitha Lizandra Gumbs	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Helen Zenobia Willis	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gertrude Naeema Gilyard	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rosie Jackson	<input checked="" type="checkbox"/>	<input type="checkbox"/>
khalid kamau	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mark Baker	<input checked="" type="checkbox"/>	<input type="checkbox"/>

THIS ORDINANCE adopted this 20th day of June 2017. **CITY OF SOUTH FULTON, GEORGIA**



WILLIAM "BILL" EDWARDS, MAYOR

ATTEST:



MARK MASSEY, CITY CLERK



APPROVED AS TO FORM:



JOSH BELINFANTE, INTERIM CITY ATTORNEY